

Remarks

Favorable reconsideration of this application, in view of the above amendments and in light of the following remarks and discussion, is respectfully requested.

Applicants respectfully request entry of the response, as the response places the application in clear condition for allowance, or alternatively places the claims in better form for appeal. Specifically, Applicants have rewritten a formerly dependent claim in independent form in accordance with the Examiner's indication of allowable subject matter, and have amended an independent claim to overcome an outstanding rejection.

Upon entry of the response, Claims 15-21 and 30 are pending; Claims 15 and 18 having been presently amended.

Applicants express thanks for the Examiner's indication that dependent Claim 18 recites allowable subject matter, such that the dependent claim, although currently objected to, would be allowable if rewritten in independent form. In response, Applicants have so-rewritten Claim 18. Thus, Applicants respectfully request that the objection to newly independent Claim 18 be withdrawn, and the newly independent claim allowed.

In the outstanding Office Action, Claims 15-17 and 19-21 were rejected under 35 U.S.C. § 102(b) as being anticipated by German Publication No. 297 18 483 to Lux-Wellenhof. Claim 30 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lux-Wellenhof. Applicants respectfully assert that the amendments to the claims have overcome the rejections for the following reasons.

The present invention is directed to earpieces for behind-the-ear parts of hearing acoustics devices. Independent Claim 15 recites a shank adapted to follow an outer edge of a patient's cavum conchae. An angled traverse segment is connected with the shank and is configured to be disposed above the patient's antitragus and to extend in a direction of the patient's porus acusticus externus. A broadened portion is disposed on the angled traverse

segment and defines a bore configured to hold a signal conductor in an upper half of the patient's auditory canal and to prevent the signal conductor from covering a portion of a lower half of the patient's auditory canal.

Lux-Wellenhof shows a hearing aid. The Office Action asserts that Figures 1 and 5 of Lux-Wellenhof show an otologic device 20 that is analogous to the claimed features of a broadened portion, as recited in independent Claim 15. Even if Applicants agreed with these assertions, which Applicants do not, Applicants respectfully assert that Lux-Wellenhof still does not teach the claimed features recited in independent Claim 15.

Applicants respectfully assert that Lux-Wellenhof does not teach the claimed features of a broadened portion defining a bore configured to hold a signal conductor in an upper half of the patient's auditory canal and to prevent the signal conductor from covering a portion of a lower half of the patient's auditory canal, as recited in independent Claim 15. Specifically, Applicants respectfully assert that Figures 1 and 5 of Lux-Wellenhof do not show that the otologic device 20 defines a bore configured to hold a signal conductor, and does not show that such a signal conductor is held in an upper half of an auditory canal and is prevented from covering a portion of a lower half of the auditory canal, for example.

Independent Claim 15 recites "a broadened portion disposed on the angled traverse segment defining a bore configured to hold a signal conductor in an upper half of the patient's auditory canal and to prevent the signal conductor from covering a portion of a lower half of the patient's auditory canal." Thus, Applicants respectfully request that the rejection of independent Claim 15 under 35 U.S.C. § 102(b) be withdrawn and the independent claim allowed.

Remaining dependent Claims 16, 17, 19-21, and 30 are allowable for at least the same reasons as independent Claim 15, from which they depend, as well as for their own features. Thus, Applicants respectfully request that the rejections of dependent Claims 16, 17, 19-21,

Application No. 10/030,192
Reply to Office Action of September 8, 2003

and 30 under 35 U.S.C. §§ 102(b) and 103(a) be withdrawn and the dependent claims allowed.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 15-21 and 30 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Registration No. 25,599
Attorney of Record

Philip J. Hoffmann
Registration No. 46,340

I:\ATTY\PH\21s\218083\FX PRP AM 102703.DOC